REMARKS/ARGUMENTS

The Pending Claims

Claims 7-12 and 20-28 currently are pending.

The Amendments to the Claims

The claims have been amended to point out more particularly and claim more distinctly the present invention. Specifically, claims 7 and 11 have been amended and new claims 21-28 have been added. Claims 1-6 and 13-19 have been canceled. The claims have been amended to correct formal matters regarding the claim language and to place the claims in a format more consistent with U.S. patent practice. In addition, originally filed claims 11 and 12 (which were directed to preventing and/or treating) have been split into (a) amended claims 11 and 12 (directed to treating) and (b) new claims 23 and 25 (directed to preventing). The phrase "such as a human" has been removed from originally filed claim 11 and put into new dependent claims 21, 22, 24, and 26. Withdrawn claim 7 has been similarly amended with the addition of new dependent claims 27 and 28. Accordingly, no new matter has been added by way of these amendments.

The Restriction Requirement

The Office has required restriction between the following three groups of claims:

Group I: Claims 1-6 and 19, drawn to a composition comprising as an active ingredient a pyrazolone derivative represented by formula I,

Group II: Claims 7-10, 13-16, and 20, drawn to a method of using a compound represented by formula I, and

Group III: Claims 11-12 and 17-18, drawn to a method for preventing and/or treating multiple sclerosis, meningitis, cerebritis, or brain abscess, which method comprises administering a compound represented by formula I.

In addition, the Office Action requires that Applicants elect a single species for the elected group of claims. Specifically, Applicants are required to define a particular species for R^1, R^2, and R^3 of formula I as recited in claims 1, 5, 7, 11, 13, and 17.

Applicants' Election

Applicants elect, with traverse, the claims of Group III for further prosecution. In view of the claim amendments discussed above, elected Group III comprises claims 11, 12, and 21-26.

In response to the election of species requirement, Applicants elect, with traverse, the compound of formula I wherein R^1 is methyl, R^2 is a hydrogen atom, and R^3 is phenyl (i.e., 3-methyl-1-phenyl-2-pyrazolin-5-one). All of the pending claims encompass the use of the elected specie.

While Applicants have provided an election for the aforementioned specific species, the species election merely is intended to aid the Examiner in the search and examination of the present patent application. The species election is by no means indicative of Applicants' willingness to ultimately limit the claims of the present application to this specie. As acknowledged in the Office Action, and consistent with an election of species requirement, Applicants are entitled to consideration of additional species encompassed by the generic claims upon a determination that the elected specie is patentable.

Discussion of the Restriction Requirement

Applicants have canceled the nonelected claims of Group I, i.e., claims 1-6 and 19. Accordingly, the following discussion of the restriction requirement is only with respect to Groups II and III.

The Manual of Patent Examining Procedure (M.P.E.P.) recites the requirements for a proper restriction requirement. In particular, the M.P.E.P. states that there are two criteria for proper restriction between patentably distinct inventions: (a) the inventions must be independent, *and* (b) there must be a serious burden on the examiner in the absence of restriction. See M.P.E.P. § 803. These are two separate criteria that must be satisfied to support a proper restriction requirement. The fact that both criteria must be satisfied is made all the more clear by the following statement in the M.P.E.P.: "If the search and examination of an entire application can be made without serious burden, the examiner *must* examine it on the merits, even though it includes claims to independent or distinct inventions." M.P.E.P. § 803 (emphasis added).

Applicants respectfully submit that the restriction requirement between the claims of Groups II and III is improper because the nature of the claims is such that any burden encountered in searching and examining the two groups of claims at the same time would, at most, be slight and would not be "serious."

More specifically, the claims of Group II (which, in view of the claim amendments herein, constitute claims 7-10, 20, 27, and 28) are directed to a method for inhibiting a blood-brain barrier disruption which comprises administering an effective amount of a pyrazolone derivative represented by formula I. The claims of Group III (which, in view of the claim amendments herein, constitute claims 11, 12, and 21-26) are directed to a method for preventing and/or treating multiple sclerosis, meningitis, cerebritis, or brain abscess which comprises administering a pyrazolone derivative represented by formula I. As disclosed in the specification, the pyrazolone derivative represented by formula I is effective for inhibiting a blood-brain barrier disruption in inflammatory diseases of the central nervous system. Examples of such inflammatory diseases of the central nervous system include multiple sclerosis, meningitis, cerebritis, and brain abscess (see specification paragraph 0113). Therefore, a search of the claims of Group II likely would be similar in scope to a search of the claims of Group III, and the two searches likely would yield similar search results. As such, a search of the claims of Groups II and III at the same time would not place a "serious burden" on the Examiner.

In addition, all of the pending claims that are encompassed by Groups II and III involve the use of the same compounds and the administration of these compounds to a mammal. Thus, the examination of the claims of Group II likely would be similar to the examination of the claims of Group III such that the examination of the claims of both Groups II and III at the same time would not pose a "serious burden" on the Examiner.

Accordingly, there would appear to be sufficient similarity between the subject matter of Groups II and III to allow for the search and examination of the claims of Groups II and III at the same time without a "serious burden" being placed on the Examiner. Applicants, therefore, respectfully request withdrawal of the restriction requirement as between Groups II and III.

Conclusion

If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

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Date: September 21, 2007